

REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 12-14, 31 and 32 will be pending in the application subsequent to entry of this Amendment. These claims are directed to the elected invention; those claims not directed to the elected invention and withdrawn from consideration have been canceled.

Applicants note with appreciation that various rejections stated in the previous Official Action have been withdrawn however two rejections based upon prior art remain, they are claims 12-14 as allegedly being "obvious" over Calvani while claims 31 and 32 are rejected over the same reference in combination with an article by Walker.

As explained in more detail below, the application as filed includes comparative evidence showing synergistic results, as recognized in the current Official Action, and applicants have amended their claims directed to the ratio of the two components involved as used in the comparisons to demonstrate synergism, that is a 1:1 ratio.

Claims 12-14 refer to a method for protecting kidney from dysfunction caused by lithium by administering acetyl L-carnitine in combination with propionyl L-carnitine. Calvani et al. U.S. 5,955,424 describe the administration of L-carnitine or alkanoyl L-carnitine for inhibiting nephrotoxicity due to immunosuppressant drugs. Calvani et al. do not disclose a combination comprising the two compounds in a single formulation and, more importantly Calvani et al. do not refer to lithium as a nephrotoxic agent.

The experimental results reported in from page 7 - last 5 lines to page 9 – table 3, of the specification of the subject application, show that the combination of acetyl L-carnitine with propionyl L-carnitine has a synergic effect. From the data in table 3 it can be easily understood that the post-lithium-infusion time is halved by the combination in comparison to the two components alone.

The results could not be predicted merely by looking at the disclosure of Calvani et al. In fact, the skilled person could not expect the behavior of the combination and the presence of a synergic effect by looking at the effects of the single components.

The evidence of unexpected results as shown by the data provided in Table 3 of the originally filed specification provide sufficient basis for demonstration of a surprising and synergistic effect provided by L-carnitine in combination with propionyl L-carnitine.

Walker represents the background art on damage caused by lithium on the kidney. The applicant was aware at the time of filing of the nephrotoxic activity of lithium, as mentioned in page 8 lines 1-2, and knew that lithium causes tubular necrosis. Walker et al. do not add any additional information to those given by Calvani et al.

The crux of the current Official Action when the evidence of record is considered is succinctly stated on page 8 of the examiner's Letter, the relevant passage being:

"Applicant further argues that the data in table 3, it can be easily understood that the post-lithium-infusion time is halved by the combination in comparison to the two components alone. Applicant's data have been carefully reviewed and considered. However, it is not found to be persuasive because the 'evidence' of alleged synergism is not commensurate in scope with the breadth of the claims."

Taking into account the examiner's comments and the wish to proceed this application to allowance the claims have been amended to state that the quantities of the two components, namely the acetyl L-carnitine and the propionyl L-carnitine are present in a 1:1 ratio. This is consistent with the description of the invention and in particular reflects the data contained in the application as filed, in particular that of table 3.

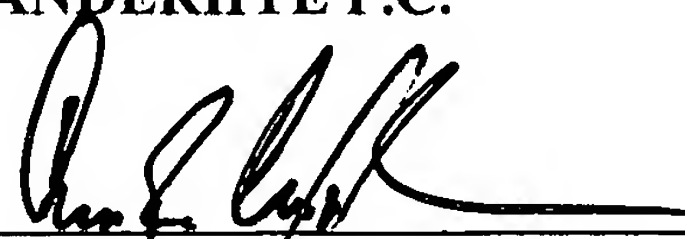
In view of the amendments to the claims, notably the 1:1 ratio for the components employed, claims 12-14 and 31-32 are inventive over Calvani et al. in combination with Walker 1982.

Favorable consideration of claims 12-14, 31 and 32 is requested. The examiner is requested to rejoin any or all of the withdrawn claims, as appropriate.

Respectfully submitted,

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